



EXHIBIT FOR ON-DEMAND SERVICES AND MANAGED SERVICES (2015v1)

This Exhibit for On-demand Services and Managed Services, in addition to the General Terms, and any applicable PDM, applies to any On-demand Services or Managed Services offerings licensed by Customer.

1. DEFINITIONS

- 1.1 **“Customer Content”** means any material, such as audio, video, text, or images, that is provided to Adobe by Customer or on Customer’s behalf in connection with Customer’s use of the On-demand Services or Managed Services for content delivery, targeted advertising, or indexing.
- 1.2 **“Customer Data”** means (A) any information collected from the Customer Site or Customer’s search engine providers via the Distributed Code; or (B) any information that Customer imports into the On-demand Services or Managed Service from its internal data stores or other sources not supplied by Adobe.
- 1.3 **“Customer Site”** means any current or future website or application: (A) that is owned and operated by Customer, or is hosted or operated by a third party or Adobe on Customer’s behalf; (B) that contains Customer’s brand or logo; and (C) that contains a privacy policy or terms of use governing data collection practices that Customer maintains and controls, and that complies with applicable privacy or data protection laws that mandate the privacy disclosures and data collection practices for such website or application.
- 1.4 **“On-demand User” or “Managed Services User”** means, unless otherwise described in this Agreement, Customer’s employees, third-party contractors described in the “Outsourcing and Third-party Access” section of the General Terms, or those whom Customer is permitted under this Agreement to allow access to the On-demand Services or Managed Services, as applicable.
- 1.5 **“Personal Data”** is given the meaning under the Data Protection Act 1998 and any other applicable privacy or data protection laws relating to this term or any similar term (such as “personal information” or “personally identifiable information”) used in the laws, or where no such laws apply, means any information that by itself or when combined with other information (such as telephone number, e-mail address, precise real-time GPS location, and government-issued identification number) can be used by Adobe to identify a specific natural person.
- 1.6 **“Report”** means any graphical or numerical display of Customer Data that contains Adobe’s proprietary design, look and feel, which is generated by the On-demand Services or Managed Services.
- 1.7 **“Sensitive Personal Data”** is given the meaning under the Data Protection Act 1998 and any other applicable privacy or data protection laws relating to this term or any similar term (such as “sensitive personal information”) used in the laws, or where no such laws apply, means financial information (including financial account information), sexual preferences, medical or health information, and personal information of children protected under any child protection laws (such as the personal information defined under the US Children’s Online Privacy Protection Act).

2. LICENSE AND RESTRICTIONS

2.1 License Grant from Adobe

- (A) Subject to the terms of this Agreement, Adobe grants Customer, during the License Term, a non-transferable, non-exclusive, and worldwide license to:
 - (1) permit On-demand Users or Managed Services Users to access the On-demand Services or Managed Services, as applicable, through the applicable interfaces;
 - (2) install, implement, and use the Distributed Code on Customer Sites, Customer’s Computers, or the On-demand Users’ or Managed Services Users’ Computers as applicable;
 - (3) use and distribute Reports internally within Customer’s business; and

- (4) for Managed Services, develop and test Customer Customizations (as that term is defined in the PDM for the applicable Managed Services) for the purpose of evaluating potential configurations of the Managed Services, and conduct quality testing of Customer Customizations,

solely in connection with Customer's use of the On-demand Services or Managed Services, as applicable, for its internal operations. Nothing in this Agreement grants Customer any express or implied license to use, distribute, modify, copy, link, or translate the Distributed Code, other than for Customer's lawful use of the On-demand Services or Managed Services, as applicable.

2.2 License Restrictions

Except as permitted under this Agreement, Customer must not:

- (A) copy, use, reproduce, distribute, republish, download, display, post or transmit the On-demand Services, Managed Services, Distributed Code, or Reports;
- (B) sell, rent, lease, host, or sub-license the On-demand Services, Managed Services, Distributed Code, or Reports;
- (C) make Customer's login IDs or passwords available to any third party;
- (D) use, modify, copy, link, translate, or reverse engineer the Distributed Code to enhance or enable the use of any third-party product or service;
- (E) remove, obscure, or alter any proprietary notices associated with the On-demand Services, Managed Services, Distributed Code, or Reports;
- (F) use the On-demand Services, Managed Services, Distributed Code, or Reports in violation of any applicable law (including use on websites that contain unlawful material such as material that violates any obscenity, defamation, harassment, privacy, or intellectual property laws); or
- (G) for Managed Services, attempt to interact with the operating system underlying the Managed Services.

2.3 **On-demand Services and Managed Services User IDs.** Unless otherwise specifically limited in the Sales Order, On-demand User and Managed Services User login IDs and passwords for the On-demand Services or Managed Services, as applicable, will be provided to Customer in an amount mutually agreed upon by Customer and Adobe. Customer must take steps to prevent unauthorized access to its login IDs and passwords, and must not allow the use of the same login ID simultaneously by two or more On-demand Users or Managed Services Users.

2.4 License Grant from Customer

- (A) During the License Term, Customer grants Adobe and its Affiliates a non-exclusive, worldwide, royalty-free license to use, copy, transmit, sub-license, index, store, and display Customer Data and Customer Content, solely to the extent necessary to provide the On-demand Services or Managed Services, as applicable, and Reports to Customer and enforce its rights under this Agreement.
- (B) Additionally, Customer grants Adobe and its Affiliates a non-exclusive, perpetual, worldwide, and royalty-free license to use, copy, transmit, sub-license, index, model, aggregate (including combination with similar data of other customers of Adobe or its Affiliates), publish, display, and distribute any anonymous information derived from Customer Data, such as, but not limited to, web browser, screen resolution, and mobile device-type information.

3. OWNERSHIP

Customer owns the Customer Data and Customer Content, subject to Adobe's underlying intellectual property in the Adobe Technology. Adobe owns the Adobe Technology.

4. EFFECT OF TERMINATION OR EXPIRATION

4.1 Upon termination or expiration of this Agreement or any License Term for On-demand Services or Managed Services:

- (A) the license and associated rights for On-demand Services or Managed Services, as applicable, granted to Customer under this Agreement will immediately terminate;
 - (B) Customer must, at its expense: (1) remove and delete all copies of the Distributed Code; and (2) remove all references and links to the On-demand Services or Managed Services, as applicable, from the Customer Sites; and
 - (C) Customer Data and Customer Content stored within the On-demand Services will be available to Customer for 30 days after the termination or expiration in the same format then available within the reporting interface(s).
- 4.2 Any continued use of the Distributed Code, On-demand Services, or Managed Services after termination or expiration of this Agreement constitutes a breach of this Agreement, and Customer will be liable for any fees for any On-demand Services or Managed Services that remain active after the termination or expiration. These fees will be invoiced to Customer at the rate set out in the Sales Order.
- 4.3 With respect to Managed Services, notwithstanding anything set forth in the General Terms, if Adobe determines, in its sole judgment, that Customer's deployment of the Managed Services contains a material risk to the security of Adobe, any customer of Adobe, or to the continued normal operation of other Adobe customers, then Adobe may at any time, upon written notice to Customer, immediately terminate or suspend Customer's access, in whole or in part, to the Managed Services, until such risk is resolved. Adobe will use commercially reasonable efforts to mitigate any such security or operational risk prior to suspension or termination and only will look to such efforts as a final option to avoid such risks. Further, Adobe may terminate or suspend Customer's access, in whole or in part, to the Managed Services, if Adobe deems, in its sole judgment, that such termination or suspension is necessary to protect Adobe, its suppliers, and its other customers from impact or liability under the security or operational risks discussed herein.

5. PRIVACY

- 5.1 **Privacy Policy.** For Customer Site(s) on which Customer Data is collected or Customer Content is served, Customer agrees that the Customer Site(s) will feature a privacy policy or other notice, displayed conspicuously from the primary interface, that:
- (A) discloses Customer's privacy practices;
 - (B) identifies the collection (via cookies, web beacons, and similar technologies, where applicable) and use of information gathered in connection with the On-demand Services or Managed Services, as applicable; and
 - (C) offers individuals an opportunity to opt out of (or opt-in if applicable law requires) the collection or use of data gathered in connection with the On-demand Services or Managed Services, as applicable. Adobe reserves the right to recommend to Customer that it modify its privacy disclosures to address updates or changes to applicable law, industry self-regulation, or best practices, and Customer agrees to undertake a good faith effort to address such recommendation(s).
- 5.2 **Sensitive Personal Data.** Customer must not use the On-demand Services or Managed Services to collect, process, or store any Sensitive Personal Data of its employees, customers, partners, site visitors, or any third party. Customer must not transmit, disclose, or make available Sensitive Personal Data to Adobe or third-party providers.

6. CLAIMS

- 6.1 Customer will defend any third-party Claims brought against Adobe, its Affiliates (and directors, employees, or agents of Adobe or its Affiliates), and third-party providers that arise in connection with:
- (A) Customer's breach of any of its privacy or content monitoring obligations;
 - (B) any violation of Customer's privacy policy, third party's rights of privacy, or privacy or data protection laws, guidelines, regulations, codes, or rules;
 - (C) any Customer Data or Customer Content; or
 - (D) for Managed Services, any Customer Customizations.

Customer will indemnify Adobe, its Affiliates (and directors, employees, or agents of Adobe or its Affiliates), and third-party providers against their Losses directly attributable to the foregoing (A), (B), (C), or (D) in this section and are either awarded by a court of competent jurisdiction against Adobe; assessed by a government agency or regulator; or agreed to in a written settlement agreement signed by Customer. The Limitation of Liability provision in the General Terms does not apply to Customer's liability or obligations under this section.

6.2 Customer will have no liability for any Claim under section 6.1 of this Exhibit for On-demand Services and Managed Services if Adobe fails to:

- (A) notify Customer in writing of the Claim promptly upon the earlier of learning of or receiving a notice of it, to the extent that Customer is prejudiced by this failure;
- (B) provide Customer with reasonable assistance requested by Customer for the defense or settlement (as applicable) of the Claim;
- (C) provide Customer with the exclusive right to control and the authority to settle the Claim (Adobe may participate in the matter at Adobe's own expense); or
- (D) refrain from making admissions about the Claim without Customer's prior written consent.

7. CONTENT MONITORING

Customer must implement a process through which infringing, abusive, or otherwise unlawful content can be reported to Customer and removed in accordance with applicable laws, regulations, rules, guidelines, codes, and industry best practices. If Customer Content is hosted by Adobe, and Customer becomes aware of a possible violation regarding any Customer Content that is uploaded to the On-demand Services or Managed Services, as applicable, Customer must promptly notify Adobe. Customer acknowledges that although the On-demand Services and Managed Services may be used to modify or edit Customer Content to be posted or integrated into Customer Sites on Customer's behalf, Customer: (A) retains complete control over each Customer Site, and all Customer Content; and (B) remains fully responsible for ensuring that all Customer Sites used with the On-demand Services or Managed Services, and all Customer Content: (1) comply with all applicable laws, regulations, rules, guidelines, and codes; and (2) do not infringe any person's or entity's rights. Customer acknowledges and agrees that nothing in this section prevents Adobe from suspending services to comply with an applicable court order.

8. LIMITED WARRANTY; REMEDIES

8.1 **Warranty.** Adobe warrants that the On-demand Services or Managed Services, as applicable, as delivered to Customer will substantially conform to the applicable Documentation during the License Term, to the extent the On-demand Services or Managed Services constitute Indemnified Technology. Customer must notify Adobe of a claim under this warranty within 30 days of the date on which the condition giving rise to the claim first appeared.

8.2 **Sole and Exclusive Remedies.** To the extent permitted by law, Customer's sole and exclusive remedy and Adobe's sole liability arising out of or in connection with a breach of the warranty in section 8.1 (Warranty) of this Exhibit is limited to:

- (A) a replacement of the Distributed Code (as applicable); or
- (B) if replacement is not commercially reasonable, a termination of the applicable On-demand Service or Managed Service and a refund of any pre-paid unused fees for the applicable On-demand Service or Managed Service.

9. DATA RETENTION

With respect to On-demand Services, Customer Data may be permanently deleted from Adobe's servers 25 months from the date of its collection or receipt.